REMARKS

Claims 18 - 34 are pending. Claims 1, 3- 5, 8 - 11, and 13 - 17 have been cancelled. Claims 18 - 34 have been added. No new matter has been introduced. Reexamination and reconsideration of the application are respectfully requested.

In the April 4, 2005 Office Action, the Examiner objected to claims 4 and 13 due to informalities. The applicant has cancelled claims 4 and 13.

The Examiner rejected claim 8 under 35 U.S.C. § 112, second paragraph due to antecedent basis issues. The applicant has cancelled claim 8.

The Examiner rejected claims 1, 3 - 5, 8 - 11, and 13 - 17 under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 6,665,810 to Sakai ("the Sakai reference") in view of U.S. Patent No. 6,870,852 to Lawitzke ("the Lawitzke reference"). This rejection in so far as it is applicable to the presently pending claims is respectfully traversed.

New claim 18 distinguishes over the cited references. New claim 18 recites:

> A method of adapting a link speed of a network controller in a computing system, comprising:
> querying said computing system utilizing a periodic maintenance routine to determine if said local power supply has recently changed to a source of finite power capacity;
> lowering said link speed for the network controller from a first speed to a second speed;
> querying said computing system utilizing the periodic maintenance routine to determine if said local power supply recently changed back to an AC power source; and
> **increasing said link speed for the network controller from the second speed to a third speed upon the local power supply having changed back to the AC power source, wherein the third speed is greater than the first speed.**

The Sakai reference does not disclose, teach, or suggest the method of claim 18, as amended. The Examiner states that the Sakai reference teaches that the network device driver causes said network adapter to switch from a higher link speed (e.g., 400 mbps) to a lower link speed (100 mbps) when said power changes from an AC power supply to a power source of finite power supply. *(Office Action, page 3)*. The Examiner also stated that the Sakai reference discloses that a network device driver causes said network adapter to switch from a lower link speed to a higher link speed (100 mbps) to a higher link speed (400 mbps). *(Office Action, page 4)*. However, this is different from a method including lowering said link speed for the network controller from a first speed to a second speed **and increasing said link speed for the network controller from the second speed to a third speed upon the local power supply having changed back to the AC power source, wherein the third speed is greater than the first speed**, as is recited in claim 18.

It is not the same because the Sakai reference is disclosing that a network adapter can transfer data at a first speed (e.g., 400 mbps) if under AC power, but if the network adapter is under battery power, then the network adapter transfers data at 100 mbps. The Sakai reference does not disclose that the network adapter determines whether AC power has been restored after battery power has been implemented. Assuming, *arguendo*, that the Sakai reference discloses that the network adapter checks again to see if the AC power has been restored, the Sakai reference discloses only that the computing system, i.e., the digital video camera (DVC) 2, operates at the original operating speed, i.e. 400 mbps. There is no disclosure that the Sakai reference network adapter increases the link speed to a third speed, which is greater than the first

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speed. In other words, the Sakai reference never discloses that the network adapter increase the link speed to a third speed greater than 400 mbps. Accordingly, applicants respectfully submit that claim 18 distinguishes over the Sakai reference.

The Lawitzke reference does not make up for the deficiencies of the Sakai reference. The Examiner utilizes the Lawitzke reference to disclose that a CPU executes a maintenance routine wherein the software includes a monitoring routine for monitoring the connected power supply and that the monitoring could be done periodically. *(Office Action, page 4)*. The applicant believes that the Lawitzke reference is not properly combinable with the Sakai reference, as is discussed below.

Even if the Lawitzke reference is properly combinable with the Sakai reference, the Lawitzke reference deals only with a executing a monitoring routine, but does not disclose a method including lowering said link speed for the network controller from a first speed to a second speed **and increasing said link speed for the network controller from the second speed to a third speed upon the local power supply having changed back to the AC power source, wherein the third speed is greater than the first speed**. In contrast, the Lawitzke reference discloses only that the integrated services hub operates under battery power provided by its battery pack and that basic telephone services remain available to the customer for making emergency calls. *(Lawitzke, col. 6, lines 1 - 4)*. There is no disclosure that the Lawitzke reference changes link speeds. Accordingly, applicant respectfully submits that claim 18 distinguishes over the Lawitzke / Sakai reference combination.

Independent claim 28 recites limitations similar to claim 18 as amended. Accordingly, claim 28 distinguishes over the Sakai / Lawitzke combination for reasons

similar to those discussed above in regard to claim 18.

Claims 19 - 21 and 29 - 31 depend, indirectly or directly, on claims 18 and 28.

Accordingly, claims 19 - 21 and 29 - 31 distinguish over the Sakai / Lawitzke

combination for the same reasons as those discussed above in regard to claim 18.

Independent claim 22 distinguishes over the cited references. Independent

claim 22 recites:

> A method of adapting a link speed of a network controller in a computing system, comprising:
> querying said computing system utilizing a periodic maintenance routine to determine if said local power supply has recently changed to a source of finite power capacity;
> lowering said link speed for the network controller from a first speed to a second speed;
> querying said computing system utilizing the periodic maintenance routine to determine if said local power supply recently changed back to an AC power source;
> **increasing said link speed for the network controller from the second speed to a third speed upon the local power supply having changed back to the AC power source, wherein the third speed is different than the first speed and the second speed.**

The Sakai reference does not disclose, teach, or suggest the method of claim

23. As discussed above, the Sakai reference discloses only that the data transfer rate

for the computing device (i.e., the DVC 2), operates at one of two speeds, either 400

mbps or 100 mbps. The Sakai reference does also disclose that 200 mbps data

transfer can take place, but the 200 mbps data transfer rate is just a substitute for the

400 mbps because in the disclosed embodiment, that data transfer rate is all that the

DVC can handle. (Sakai, col. 7, lines 6 - 14). In other words, the Sakai reference is not

disclosing that the DVC switches between data transfer rates of 400, 200, and 100.

Instead, the Sakai reference is disclosing that the DVC 2 switches between either data

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transfer rates of 400 mbps and 100 mbps or between data transfer rates of 200 mbps and 100 mbps. Thus, the Sakai reference does not disclose a method including lowering said link speed for the network controller from a first speed to a second speed and **increasing said link speed for the network controller from the second speed to a third speed upon the local power supply having changed back to the AC power source, wherein the third speed is different than the first speed and the second speed.** Accordingly, applicant respectfully submits that claim 22 distinguishes over the Sakai reference.

The Lawitzke reference does not make up for the deficiencies of the Sakai reference. The Lawitzke reference does not disclose that link speeds are changed or modified when switching from AC power to backup power. Accordingly, the Lawitzke reference cannot disclose a method a method including lowering said link speed for the network controller from a first speed to a second speed and **increasing said link speed for the network controller from the second speed to a third speed upon the local power supply having changed back to the AC power source, wherein the third speed is different than the first speed and the second speed.** According, applicant respectfully submits that claim 22 distinguishes over the Lawitzke / Sakai combination.

Claims 23 - 24 depend, indirectly or directly on claim 22. Accordingly, applicant respectfully submits that claims 23 - 24 distinguish over the Sakai / Lawitzke combination for the same reasons as those discussed above in regard to claim 22.

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Claim 25 distinguishes over the cited references. Claim 25 recites:

> A method of adapting a link speed of a network controller in a computing system to maximize longevity of a local power supply, comprising:
> querying, by a network device driver, said computing system utilizing a periodic maintenance routine to determine if said local power supply has recently changed to a source of finite power capacity; and
> lowering said link speed upon said computing system having recently changed to said source of finite power capacity, **wherein the querying of the computing system results in maximizing longevity of the source of finite power capacity while maintaining network communications.**

The Sakai reference does not disclose, teach, or suggest the method of claim 25. The Examiner states that the Sakai reference does not explicitly teach that the system periodically executes a maintenance routing to determine the type of connected power source. *(Office Action, page 4)*. The applicant agrees with the Examiner and respectfully submits that claim 25 distinguishes over the Sakai reference.

The Lawitzke reference does not make up for the deficiencies of the Sakai reference. The Examiner states that the Lawitzke reference discloses that a software monitor routine monitors the connected power supply and that the monitoring could be done periodically. *(Office Action, page 4)*. The Lawitzke reference also discloses that an integrated services hub operates under backup power provided by the battery pack and that basic telephone services remain available to the customer for emergency calls. *(Lawitzke, col. 6, lines 1 - 4)*. This is not the same as a method of adapting a link speed of a network controller in a computing system **to maximize longevity of a local power supply,** including querying, by a network device driver, said computing system utilizing a periodic maintenance routine to determine if said local power supply has recently changed to a source of finite power capacity; and lowering said link speed if

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said computing system having recently changed to said source of finite power capacity, **wherein the querying of the computing system results in maximizing longevity of the source of finite power capacity while maintaining network communications.**

It is not the same because the Lawitzke reference is disclosing only 1) the monitoring of the power supply by CPU control software and 2) powering of the integrated services hub (ISH) by a battery pack and that basic telephone services remain available to the customer for emergency calls during the powering by the battery pack. There is no disclosure that the querying of the ISH results in **maximizing longevity of the power supply** because the Lawitzke reference discloses only that the ISH operates under battery backup and does not mention how to **maximize the longevity of the battery backup** (akin to the source of finite power capacity of claim 25). Further, the Lawitzke reference shows that network communications are not maintained during battery backup because the Lawitzke reference is believed to disclose that only basic telephone services remain available to the customer for making emergency calls when the integrated service hub is powered by a battery pack. Accordingly, applicants respectfully submit that claim 25 distinguishes over the Lawitzke / Sakai combination.

Claim 32 recites similar limitations to claim 25 . Accordingly, claim 32 distinguishes over the Sakai / Lawitzke combination for reasons similar to those discussed above in regard to claim 25.

Claims 26 - 27 and 33 - 34 depend, indirectly or directly, on claims 25 and 32, respectively. Accordingly, claims 26 - 27 and 33 - 34 distinguish over the Sakai / Lawitzke combination for the same reasons as those discussed above in regard to

claim 25.

Further, the applicant believed that the Sakai reference and the Lawitzke referenced are not properly combinable. The applicant respectfully submits that the Sakai reference and the Lawitzke reference cannot be combined because there is no teaching, suggestion, or incentive supporting the combination of the Sakai and Lawitzke references. The Sakai reference does not mention or suggest the use of a periodic maintenance routine and the Lawitzke reference does not mention the utilization of its invention in a digital video camera because the Lawitzke reference is designed to operate in a integrated services hub in a network. By combining these references, the Examiner has impermissibly used "hindsight" by using the applicant's teaching as a blueprint to hunt through the prior art for the claimed elements and then combine them as claimed. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Furthermore, the applicant believes the Lawitzke reference teaches away from the claimed invention. The Lawitzke reference discloses that in the event of a power failure to the electrical outlet (i.e., loss of AC power), the integrated services hub operates under backup power provided by its battery pack and basic telephone services remain available to the customer for emergency calls. *(Lawitzke, col. 6, lines 1 - 4).* This statement is not clear because it is not apparent whether the integrated services hub is still providing network services and basic telephone services, or is only providing basic telephone services. If the Lawitzke is only disclosing the providing of basic telephone services, which is what the applicant believes to be true, then the Lawitzke reference is teaching away from the invention because the Lawitzke reference is disclosing only that the network capabilities of the integrated services hub are being

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interrupted, not being slowed down or decreased in speed. Even if network services are being provided, the Lawitzke reference is still teaching away because it does not disclose that a link speed is increased or decreased. Teaching away from the art is a per se demonstration of the lack of prima facie obviousness. *In re Dow Chemical Co.*, 837 F.2d 469, 5 USPQ2d 1529 (Fed. Cir. 1988). Accordingly, the applicant respectfully submits that the Lawitzke reference is not properly combinable with the Sakai reference.

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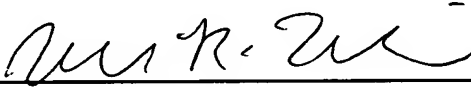
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Applicant believes that the claims are in condition for allowance, and a favorable action is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,

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